

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No.4611/2025

1. Sitara Bano Wife Of Shri Ajeem Khan, (Mother Of Deceased), Aged About 46 Years, Resident Of B-13, Gulshan Colony, Kasaiyon Ki Mori, Gangapole, Jaipur, Rajasthan.
2. Ajeem Khan Son Of Shri Abdul Shakoor, (Father Of Deceased), Aged About 53 Years, Resident Of B-13, Gulshan Colony, Kasaiyon Ki Mori, Gangapole, Jaipur, Rajasthan.

----Appellants

Versus

1. Yusuf Khan Son Of Shri Babu Khan, Resident Of Subhash Chowk, Moti Katla Bazar, Jaipur (Driver - Mini Bus No. Rj-14-Pa-9043)
2. Khaju Khan Son Of Shri Wahi Mohammed, Resident Of 229, Idgah Kacchi Basti, Jaipur Road, Jaipur (Owner Mini Bus No. Rj-14-Pa-9043)
3. New India Insurance Company Limited, Having Its Regional Office At 2Nd Floor, Nehru Palace, Tonk Road, Jaipur Through Its Regional Manager (Insurance Company Mini Bus No. Rj-14-Pa-9043)

----Respondents

For Appellant(s)	:	Mr. Vinay Mathur with Mr. Ashish Mittal
For Respondent(s)	:	Mr. V.P. Mathur

JUSTICE ANOOP KUMAR DHAND

Order

24/02/2026

1. A challenge has been led to the impugned judgment and award dated 16.07.2025 passed by the Motor Accident Claims Tribunal No.1 Jaipur Metropolitan II (for short "the Tribunal") by which the claim petition bearing No.40/2021 submitted by the appellants-claimants (for short "the claimants") has been partly allowed and the respondents have been directed to pay a compensation amount of Rs.5,22,000/- to the claimants along-with 6% interest from the date of filing the claim petition.

2. Learned counsel appearing for the claimants submits that the minor son of the claimants-Mohammed Umar, aged 14 years, met with an accident on 25.01.2021 and the accident was caused by the driver of the Mini Bus bearing No.RJ-14-PA-9043, i.e. respondent No.1, by driving the said vehicle in a rash and negligent manner. As a result, the deceased-Mohammed Umar suffered several grievous injuries and subsequently passed away during treatment. Thereafter, the claimants submitted a claim petition before the Tribunal seeking compensation. Learned counsel submits that while determining the loss of income of the deceased, the Tribunal has determined the same as Rs.30,000/- annually, while the Hon'ble Apex Court in the case of **Hitesh Nagjibai Patel Vs. Bababhai Nagjibhai Rabari & Anr.** reported in **2025 INSC 1070** has held that when a minor child, who is involved in an accident, is not engaged in any gainful employment at the time of accident, then the computation of compensation under the head of loss of income ought to be made by adopting the formulae to minimum wages payable to a skilled workman as notified for the relevant period in the respective State. Learned counsel submits that in the instant case, the accident has occurred on 25.01.2021 and as per the notification of the Labour Department, Govt. of Rajasthan, the daily wages of a skilled labour was Rs.276/- and the monthly wages of such skilled labour was Rs.8280/- for 30 days. Learned counsel submits that, under these circumstances, considering the loss of income of the deceased as loss of income of skilled daily wager, the impugned judgment and award needs to be suitably enhanced.

3. *Per contra*, learned counsel appearing on behalf of the respondent-Insurance Company opposed the arguments raised by learned counsel for the claimants and submitted that a minor has no source of income, hence, under these circumstances, the minor cannot be treated as skilled daily wager, therefore, the Tribunal has not committed any error in passing the impugned judgment and award. He submits that the impugned judgment and award has been passed on the basis of sound reasoning, which does not require any interference of this Court and the instant appeal is liable to be rejected.

4. Heard and considered the submissions made at the Bar and perused the material available on the record.

5. Perusal of the record indicates that the minor son of the claimant has met with an accident and he has passed away. At the time of the accident, his age was 14 years and after considering this fact, the Tribunal has granted compensation to the claimants by treating the loss of income as a lumpsum amount of Rs.30,000/- annually, but recently the Hon'ble Apex Court has dealt with the same issue in the case of **Hitesh Nagjibai Patel** (supra) in Para 9, which reads as under:-

"9. On the aspect of monthly income of the minor appellant, we are inclined to interfere with the judgment and order of the Courts below. In the present case, it is evident that the Courts below have failed to take into account the monthly income of the appellant while determining the quantum of compensation. It is now a well-entrenched and consistently reiterated principle of law that a minor child who suffers death or permanent disability in a motor vehicle accident, cannot be placed in the same category as a non-earning individual for the purposes of assessing the amount of compensation because the child was not engaged in gainful

employment at the time of the accident. In such a case, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled workman as notified for the relevant period in the respective State where the cause of action arises. The said observation was rendered by this Court, in **Kajal v. Jagdish Chand and Ors.** reported in **(2020) 4 SCC 413**, and **Baby Sakshi Greola v. Manzoor Ahmad Simon and Anr.** reported in **2024 SCC OnLine SC 3692.**"

6. The Hon'ble Apex Court in the aforesaid judgment has categorically held that when a child involved in an accident, was not engaged in a gainful employment at the time of accident, then under such like matters, the computation of compensation under the head of loss of income ought to be made by adopting, at the very least, the minimum wages payable to a skilled labour as notified for the relevant period in the respective State where the cause of action has arisen.

7. In the instant case also, the accident has occurred in the year 2021 and at the relevant time, daily wages of the skilled labour was Rs.276/- and monthly wages of child for 30 days was Rs.8280/-, as notified by Labour Department, Govt. of Rajasthan.

8. Further, under the head of loss of estate and funeral expenses, a lumpsum amount of Rs.36,000/- has been awarded by the Tribunal, while as per the judgment passed by the Hon'ble Apex Court in the case of **National Insurance Company Limited Vs. Pranay Sethi & Ors.** reported in **(2017) 16 SCC 860**, under both these heads, the claimants are entitled to get a lumpsum amount of Rs.33,000/- only. In addition to the above, the claimants are also entitled to get an additional 10% enhancement under the head of loss of consortium as the accident

has occurred after the year 2020, i.e. on 25.01.2021. Hence, under these circumstances, the award is required to be enhanced in the following terms:-

Monthly Income (along with additional 40% future prospects)	$276 \times 30 + 276 \times 30 \times 40/100$ $8280 + 3312$ $= \text{Rs.}11,592/-$
½ Deduction towards personal and living expenses of the deceased	$11,592 \times \frac{1}{2}$ $= \text{Rs.}5,796/-$
Annual Income	5796×12 $= \text{Rs.}69,552/-$
Multiplier to be applied	15 $69,552 \times 15$ $= \text{Rs.}10,43,280/-$
Loss of consortium, love & affection (along with additional 10%)	$40,000 \times 2 + 40,000 \times 2 \times 10/100$ $80,000 + 8,000$ $= \text{Rs.}88,000/-$
Loss of Estate	$\text{Rs.}16,500/-$
Funeral Expenses	$\text{Rs.}16,500/-$
Total compensation awardable	$\text{Rs.}11,64,280/-$
Less amount awarded by the Tribunal	$\text{Rs.}5,22,000/-$
Enhanced amount of compensation	$\text{Rs.}6,42,280/-$

9. With the aforesaid observations and directions, the instant civil misc. appeal stands disposed of and the impugned award passed by the Tribunal stands modified to the extent that the claimant is entitled to get a sum of Rs.6,42,280/- by way of enhanced compensation and the remaining terms and conditions of the impugned award shall remain intact.

10. It is further ordered that out of the enhanced compensation amount, a sum of Rs.50,000/- be deposited in the Savings Bank Account of claimant No.1 and the remaining amount be deposited

in a fixed deposit with any Nationalized Bank initially for a period of three years and the interest accrued on the said amount shall be paid to the claimant on monthly basis.

11. The respondents are directed to deposit the enhanced amount within a period of four weeks from today with interest @6% per annum from the date of filing of the claim petition.

12. Pending applications, if any, also stand disposed of.

(ANOOP KUMAR DHAND),J

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